

**IN THE UNITED STATES PATENT
AND TRADEMARK OFFICE**

In re Application of:
Mark R. Hellberg
Iok-Hou Pang
John M. Yanni

Group Art Unit: 1618

Examiner: Fay, Zohreh A.

Atty. Dkt. No.: 2187 US F

Serial No.: 10/775,704 (Conf. #3340)

Filed: February 10, 2004

For: USE OF COMPOUNDS FOR TREATING
CONDITIONS RESULTING FROM INJURY TO
THE CORNEAL NERVE AFTER LASIK AND
OTHER OCULAR SURGERIES OR TRAUMA

COMMUNICATION

Mail Stop AF
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is submitted to inquire as to the status of the response filed June 15, 2005 to the Notice Regarding Benefit/Priority Claim(s) dated April 25, 2005.

Applicants requested a correction of filing receipt which was submitted by facsimile on May 14, 2004 (Exhibit A). Following through with a telephone conversation with personnel in Art Unit 1601, the request for correction of filing receipt was submitted a second time by facsimile on April 21, 2005 (Exhibit B). Applicants received a Notice Regarding Benefit/Priority Claim(s) dated April 25, 2005 in which a response to the notice was filed June 15, 2005 (Exhibit C). Applicants seek advice as to whether the Office will provide a corrected filing receipt listing the proper priority information.

Serial No.: 10/775,704 (Conf. #3340)

Filed: 10 February 2004

Page 2

The Examiner is invited to contact the undersigned attorney at (817) 551-4321 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



Teresa J. Schultz

Reg. No. 40,526

Attorney for Applicants

ALCON RESEARCH, LTD.
6201 S. Freeway, TB4-88
Fort Worth, TX 76134-2099
817- 551-4321

Date: 16 October 2007

Exhibit A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Mark R. HELLBERG, et al.

Serial No. 10/775,704 (Conf. No. 3340)

Filed: 10 February 2004

Examiner:

For: USE OF COMPOUNDS FOR TREATING
CONDITIONS RESULTING FROM INJURY TO
THE CORNEAL NERVE AFTER LASIK AND
OTHER OCULAR SURGERIES OR TRAUMA

CERTIFICATE OF TRANSMISSION	
I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. 703-746-9195) on May 14, 2004.	
Date:	14 May 2004
Name:	Barbara McKenzie
Signature:	<i>Barbara McKenzie</i>

REQUEST FOR CORRECTION OF FILING RECEIPT

Commissioner for Patents

Attn: Office of Initial Patent Examination's Filing Receipt Corrections
Washington, D.C. 20231

Sir:

Applicants hereby request correction of the official filing receipt issued in connection with the above-identified patent application. A copy of the filing receipt as originally issued is attached, with the corrections noted.

As reflected on the attached filing receipt copy. Please add the following to Domestic Priority to reflect: **"This application is a 371 of PCT/US02/23871 07/23/2002 which claims benefit of USSN 60/315,652 08/29/2001"**.

In order to avoid future confusion, Applicants respectfully request that a corrected filing receipt be issued to reflect the correct information.

Respectfully submitted,

ALCON RESEARCH, LTD.

Date 14 May 2004

By *Teresa J. Schultz*
Teresa J. Schultz
Registration No. 40,526

Address for Correspondence:
Teresa J. Schultz
R&D Counsel, Q-148
Alcon Research, Ltd.
6201 South Freeway
Fort Worth, Texas 76134-2099
Phone: 817-551-4321
Attorney Docket No.: 2187 US F

JS
5/27/04



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/775,704	02/10/2004	1632	770	2187 US F		18	3

Teresa J. Schultz
 Alcon Research, Ltd.
 6201 South Freeway, Q-148
 Fort Worth, TX 76124-2099

CONFIRMATION NO. 3340

FILING RECEIPT



OC000000012574612

Date Mailed: 05/10/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Mark R. Hellberg, Arlington, TX;
 Iok-Hou Pang, Grand Prairie, TX;
 John M. Yanni, Burleson, TX;

Domestic Priority data as claimed by applicant THIS APPLICATION IS A 371 OF PCT/US02/23871
 07/23/2002 WHICH CLAIMS BENEFIT OF USSN 60/315,652 08/29/2001.

Foreign Applications

UNITED STATES OF AMERICA PCT/US02/23871 07/23/2002

If Required, Foreign Filing License Granted: 05/07/2004

Projected Publication Date: 08/19/2004

Non-Publication Request: No

Early Publication Request: No

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MAY 13 2004

R & D COUNSEL

Title

Use of compounds for treating conditions resulting from injury to the corneal nerve after LASIK
 and other ocular surgeries or trauma

Exhibit B



April 21, 2005

6201 SOUTH FREEWAY
FORT WORTH, TEXAS 76134-2099
(817) 293-0450

(817) 551-4321 TELEPHONE
(817) 551-4610 TELECOPIER

INTELLECTUAL PROPERTY LAW AND R&D COUNSEL

- TELEFAX TRANSMISSION COVER SHEET -	
TO: Office of Initial Patent Examination's Filing Receipt Correction, U.S. Patent and Trademark Office	
FAX: 703 - 872 - 9306	
FROM: Teresa J. Schultz	RE: USSN 10/775,704
MESSAGE: See attached.	
THIS FAX CONSISTS OF <u> 5 </u> PAGES INCLUDING THIS COVER SHEET.	
NOTE: If you do not receive all pages, please call Barbara McKenzie at (817) 551-4447 as soon as possible. THANK YOU! Confirmation copy will not be sent.	
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Received
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=====>

05/14/2004 15:52 FAX 817 551 4610

R&D COUNSEL

001

Alcon
RESEARCH, Ltd.

8201 South Freeway
Fort Worth, Texas 76134-2099
(817) 293-0450

(817) 551-4321 TELEPHONE
(817) 551-4610 TELECOPIER

Mary 24, 2004

INTELLECTUAL PROPERTY LAW AND R&D COUNSEL

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FROM:	Teresa J. Schultz
RE:	U/SSN 10/775,704
MESSAGE:	See attached Request For Correction Of Filing Receipt [1 pg]; and copy of marked-up Filing Receipt [1 pg].
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Mark R. HELLBERG, et al.

Serial No. 10/775,704 (Conf. No. 3340)

Filed: 10 February 2004

Examiner:

For: USE OF COMPOUNDS FOR TREATING
CONDITIONS RESULTING FROM INJURY TO
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In order to avoid future confusion, Applicants respectfully request that a corrected filing receipt be issued to reflect the correct information.

Respectfully submitted,

ALCON RESEARCH, LTD.

Date 14 May 2004

By *Teresa J. Schultz*
Teresa J. Schultz
Registration No. 40,526

Address for Correspondence:
Teresa J. Schultz
R&D Counsel, Q-148
Alcon Research, Ltd.
6201 South Freeway
Fort Worth, Texas 76134-2099
Phone: 817-551-4321
Attorney Docket No.: 2187 US F

sh
5/27/04



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
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10/775,704	02/10/2004	1632	770	2187 US F		18	3

Teresa J. Schultz
 Alcon Research, Ltd.
 6201 South Freeway, Q-148
 Fort Worth, TX 76124-2099

CONFIRMATION NO. 3340

FILING RECEIPT



OC000000012574612

Date Mailed: 05/10/2004

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Applicant(s)

Mark R. Hellberg, Arlington, TX;
 Iok-Hou Pang, Grand Prairie, TX;
 John M. Yanni, Burleson, TX;

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Early Publication Request: No

Title

Use of compounds for treating conditions resulting from injury to the corneal nerve after LASIK
 and other ocular surgeries or trauma

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MAY 13 2004

R & D COUNSEL



Mary 24, 2004

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INTELLECTUAL PROPERTY LAW AND R&D COUNSEL

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Alcon
RESEARCH, Ltd.

April 21, 2005

6201 SOUTH FREEWAY
FORT WORTH, TEXAS 76134-2099
(817) 293-0450

(817) 551-4321 TELEPHONE
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FAX: 703 - 872 - 9306	
FROM: Teresa J. Schultz	RE: USSN 10/775,704
MESSAGE: See attached.	
THIS FAX CONSISTS OF <u>5</u> PAGES INCLUDING THIS COVER SHEET.	
NOTE: If you do not receive all pages, please call Deborah McKinnis at (817) 551-4447	

Exhibit C

**THE OFFICIAL DATE STAMP HEREON BY THE PTO
ACKNOWLEDGES RECEIPT OF THE FOLLOWING:**

Title: Use Of Compounds For Treating Conditions Resulting From Injury To
The Corneal Nerve After LASIK And Other Ocular Surgeries Or Traumas

Applicant: HELLBERG, Mark S., et al.

First Class Mail

Application No.: 10/775,704 (Conf. #3340)

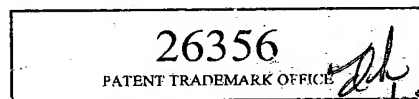
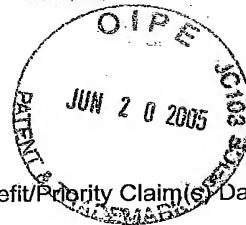
Date of Filing Paper: 15 June 2005

Enclosures:

- (1) Transmittal Letter [1 pg];
- (2) Amendment And Response To Notice Regarding Benefit/Priority Claim(s) Dated April 25, 2005 [3 pp];
- (3) copy of Notice Regarding Benefit/Priority Claim(s) [3 pp]; and
- (4) Return Card.

Docket No.: 2187 US F

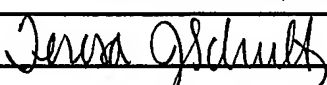
Initials: TJS/bmc

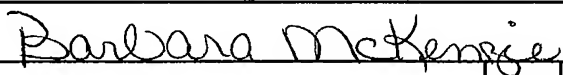


Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/775,704 (Conf. #3340)	
	Filing Date	February 10, 2004	
	First Named Inventor	Mark R. HELLBERG et al.	
	Art Unit	1614	
	Examiner Name	Z. Fay	
Total Number of Pages In This Submission	7	Attorney Docket Number	2187 US F

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <div style="text-align: center;">Return Card</div>
<div style="border: 1px solid black; padding: 2px;">Remarks</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Alcon Research, Ltd.		
Signature			
Printed name	Teresa J. Schultz		
Date	15 June 05	Reg. No.	40,526

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name	Barbara McKenzie	Date	15 June 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT
AND TRADEMARK OFFICE

In re Application of:
Mark R. Hellberg
Iok-Hou Pang
John M. Yanni

Serial No.: 10/775,704 (Conf. #3340)

Filed: February 10, 2004

For: USE OF COMPOUNDS FOR TREATING
CONDITIONS RESULTING FROM
INJURY TO THE CORNEAL NERVE
AFTER LASIK AND OTHER OCULAR
SURGERIES OR TRAUMA

Group Art Unit: 1614

Examiner: Fay, Z.

Atty. Dkt. No.: 2187 US F

**AMENDMENT AND RESPONSE TO NOTICE
REGARDING BENEFIT/PRIORITY CLAIM(S)
DATED APRIL 25, 2005**

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being
deposited with the United States Postal Service, with
sufficient postage, as First Class in an envelope
addressed to: Commissioner for Patents, P.O. Box
1450, Alexandria, VA 22313-1450 on this date:

15 June 2005

Date

Barbara McKenzie

Name

Barbara McKenzie

Signature

Sir:

This Amendment is filed in response to the Notice Regarding Benefit/Priority Claim(s) mailed April 25, 2005. Enclosed is a copy of the notice.

It is believed that no fee is due; however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason, the Assistant Commissioner is authorized to deduct said fees from Alcon, Inc. Deposit Account No. 501051.

Reconsideration of the application is respectfully requested.

Amendment to the Specification is reflected in the amendment which begins on page 2 of this paper.

There are no **Amendments to the Claims**.

Remarks/Arguments begin on page 3 of this paper.

Serial No.: 10/775,704 (Conf #3340)
Filed: 10 February 2004
Page 2

I. AMENDMENTS TO THE SPECIFICATION

Please add the following sentence below the title:

This 371 application claims priority from PCT/US02/23871 filed on July 23, 2002, and United States Serial No. 60/315,652, filed on August 29, 2001.

Serial No.: 10/775,704 (Conf #3340)
Filed: 10 February 2004
Page 3


II. REMARKS:

A. Conclusion

This is submitted to be a complete response to the outstanding Notice. The Applicants filed the patent application using the incorrect transmittal form. The application papers should be been filed with the "Transmittal Letter To The United States Designated/Elected Office (DO/EO/US) Concerning A Submission Under 35 U.S.C. 371" form instead of the Utility Patent Application Transmittal.

The Examiner is invited to contact the undersigned attorney at (817) 551-4321 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,


Teresa J. Schultz
Reg. No. 40,526
Attorney for Applicants

ALCON RESEARCH, LTD.
6201 S. Freeway, Q-148
Fort Worth, TX 76134-2099
(817) 551-4321

Date: 15 June 05



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/775,704	02/10/2004	Mark R. Hellberg	2187 US F

Teresa J. Schultz
 Alcon Research, Ltd.
 6201 South Freeway, Q-148
 Fort Worth, TX 76124-2099

CONFIRMATION NO. 3340



OC000000015852453

Date Mailed: 04/25/2005

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APR 28 2005

☐ **Improper Benefit Claim(s) to Prior-Filed Nonprovisional Application(s)**

R & D COUNSEL

The benefit claim(s) to prior-filed nonprovisional application(s) is improper because there is no specific reference for each prior-filed application that includes: (1) the identification of the prior-filed application by application number, or international application number and international filing date; and (2) a clear indication the relationship (i.e., continuation, divisional, or continuation-in-part) of the nonprovisional applications. For example, applicant should amend the specification to include a specific reference, such as "This application is a continuation of Application No. 10/---,--- filed ---." in the first sentence of the specification following the title.

Applicant should review each benefit claim submitted and, if appropriate, provide the proper reference to the prior-filed application(s) as required by 37 CFR 1.78. A proper relationship includes an identification of each nonprovisional application as a continuation, divisional or continuation-in-part application of the immediate prior-filed nonprovisional application for which a benefit is claimed under 37 CFR 1.78 in order to establish copendency throughout the entire chain of prior-filed applications. The specific reference must be included in the domestic priority information section of an application data sheet (37 CFR 1.76), or the specification must contain, or be amended to contain, such reference in the first sentence following the title.

Timeliness: The required reference for each benefit claim must be filed during the pendency of the instant application and within the later of: (1) four months from the actual filing date of the instant application, or the national stage commencement date if the instant application is a national stage application under 35 U.S.C. 371; or (2) sixteen months from the filing date of the prior-filed application. Failure to timely file the required reference is considered a waiver of any benefit claim, unless a grantable petition to accept an unintentionally delayed claim under 37 CFR 1.78(a), the surcharge set forth in 37 CFR 1.17(t), and the required reference are filed. See 37 CFR 1.78(a).

☐ **Improper Benefit Claim(s) to Prior-Filed Nonprovisional Application(s)**

The benefit claim(s) to prior-filed provisional application(s) is improper because the instant application was not filed within twelve (12) months from the filing date of the provisional application, and there is no indication of an intermediate nonprovisional application that is directly claiming the

benefit of the provisional application and filed within 12 months of the filing date of the provisional application. For example, applicant should amend the specification to include a specific reference, such as "This application is a continuation of Application No. 10/---,--- filed ---, which claims the benefit of U.S. Provisional Application No. 60/---,--- filed---." in the first sentence of the specification following the title.

Applicant should review each benefit claim submitted and, if appropriate, provide the proper reference to the prior-filed applications (including an indication of any intermediate nonprovisional application that is directly claiming the benefit of the provisional application and filed with 12 months of the filing date of the provisional application) as required by 37 CFR 1.78. The required reference must be included in the domestic priority information section of an application data sheet (37 CFR 1.76), or the specification must contain, or be amended to contain, such reference in the first sentence following the title.

Timeliness: The required reference for each benefit claim must be filed during the pendency of the instant application and within the later of: (1) four months from the actual filing date of the instant application, or the national stage commencement date if the instant application is a national stage application under 35 U.S.C. 371; or (2) sixteen months from the filing date of the prior-filed application. Failure to timely file the required reference is considered a waiver of any benefit claim, unless a grantable petition to accept an unintentionally delayed claim under 37 CFR 1.78(a), the surcharge set forth in 37 CFR 1.17(t), and the required reference are filed during the pendency of the instant application.

☐ **Improper Priority Claim(s) to Prior-Filed Foreign Application(s)**

The instant application was not filed within twelve (12) months from the filing date of the prior-filed foreign application, and there is no benefit claim to an intermediate nonprovisional application filed within 12 months of the filing date of the foreign application. Applicant should review each priority claim submitted and, if appropriate, provide the proper reference to any intermediate nonprovisional application filed within 12 months of the filing date of the foreign application in compliance with 37 CFR 1.78, or delete the priority claim. The required reference to an intermediate nonprovisional application must be included in the domestic priority information section of an application data sheet (37 CFR 1.76), or the specification must contain, or be amended to contain, such reference in the first sentence following the title.

Timeliness: The required reference for the benefit claim to an intermediate nonprovisional application must be filed during the pendency of the instant application and within the later of: (1) four months from the actual filing date of the instant application, or the national stage commencement date if the instant application is a national stage application under 35 U.S.C. 371; or (2) sixteen months from the filing date of the prior-filed application. Failure to timely file the required reference is considered a waiver of any benefit claim, unless a grantable petition to accept an unintentionally delayed claim under 37 CFR 1.78(a), the surcharge set forth in 37 CFR 1.17(t), and the required reference are filed.

☐ **Benefit Claims to More Than 400 Prior-Filed Applications**

The Office's automated system to record and capture benefit claims is only capable of recording benefit claims for 400 prior-filed applications. Therefore, the Office is unable to generate a filing receipt containing benefit claims for more than 400 prior-filed applications even though applicant is entitled to submit benefit claims for more than 400 prior-filed applications. Accordingly, applicant should not request a corrected filing receipt to include benefit claims for more than 400 prior-filed applications.



Prior-Filed Nonprovisional Application has been Improperly Indicated as a National Stage (35 U.S.C. 371) Application

Applicant submitted a benefit claim to a prior-filed nonprovisional application and improperly indicated that the prior-filed application is a national stage application under 35 U.S.C. 371. The Office's records show that the prior-filed application is an application filed under 35 U.S.C. 111(a). The Office has entered the benefit claim to the prior-filed application as a benefit claim to an application filed under 35 U.S.C. 111(a). Any request for a corrected filing receipt to include the indication that the prior-filed application is a national stage application will not be granted unless applicant supplies evidence that the prior application was in fact a national stage application. Accordingly, applicant should not submit such request without such evidence. Applicant should submit an amendment (or an application data sheet (ADS) if the benefit claim was submitted in an ADS) to delete the indication that the prior-filed application is a national stage application.

For more information and examples on benefit claims, please see Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. 119(e), 120, 121, and 365(c), 1268 Off. Gaz. Pat. Office 89 (March 18, 2003), which is available on the USPTO website at <http://www.uspto.gov/web/offices/com/sol/og/2003/week11/patbene.htm>, and the Manual of Patent Examining Procedure (MPEP) §§ 201.11 and 201.14.

PART 1 - ATTORNEY/APPLICANT COPY